

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TYRONE S. ALLEN,

Plaintiff,

v.

KINLEY R. BURTON AND FEDEX
FREIGHT, INC. D/B/A FEDEX FREIGHT,

Defendants.

CIVIL ACTION FILE
NUMBER

DEFENDANTS' NOTICE OF REMOVAL

1.

Plaintiff Tyrone S. Allen filed civil action number 23A02498 June 5, 2023 against Defendants Kinley R. Burton and FedEx Freight, Inc. in the State Court of Dekalb County, Georgia. Defendants attach copies of the Summons and Complaint as Exhibit "A" and their Answer as Exhibit "B."

2.

Plaintiff was a citizen and a resident of Georgia when he the filed the Complaint. Para. 1, Exhibits "A" and "B".

3.

Defendant Burton was a citizen and resident of South Carolina when Plaintiff filed the Summons and Complaint. Para. 1, Exhibits "A" and "B".

4.

Defendant FedEx Freight was an Arkansas corporation with its principal office in Tennessee when Plaintiff filed the Summons and Complaint. Para. 3, Exhibits "A" and "B".

4.

There is complete diversity of citizenship in this case.

5.

This personal injury action arises from a June 8, 2021 motor vehicle collision and Plaintiff claims serious injuries, medical expense, pain and suffering, lost wages, mental anguish, diminished quality of life and special damages in excess of \$47,433.02. Exhibit "A" para. 25, 26. Plaintiff sent a May 19, 2023 letter demanding \$200,000.00 to Defendant FedEx's third party administrator. "Exhibit C". Therefore, the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

6.

This civil action is properly removable to this Court pursuant to 28 U.S.C. §§ 1441(a), 1446(a) and 1446(b). In accordance with 28 U.S.C. § 1332(a), there exists a complete diversity of

citizenship between Plaintiff and Defendants and the amount in controversy, exclusive of interest and cost, exceeds \$75,000.00.

7.

Defendants consent to the removal of this civil action.

8.

Defendants notify the Court, the Clerk, and all parties within thirty days after service and receipt of the Summons and Complaint filed in the State Court of DeKalb County that they removed this civil action to this Court under 28 U.S.C. § 1446 and Fed. R. Civ. P. 11.

DENNIS, CORRY, SMITH & DIXON, LLP

/s/ *Grant B. Smith*

GRANT B. SMITH, ESQ.

Georgia bar number 658345

/s/ *William B. Pate*

WILLIAM B. PATE, ESQ.

Georgia bar number 793099

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CERTIFICATE OF SERVICE

I electronically filed **DEFENDANTS' NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Patrick A. Berkshire, Esq.
Eric L. Jensen, Esq.
Jensen Law, LLC
6111 Peachtree Dunwoody Road
Building G, Suite 201
Atlanta, Georgia 30328

I also mailed by United States Postal Service the document to the following non-CM/ECF participants: None.

This 5th day of July, 2023.

/s/ William B. Pate
WILLIAM B. PATE, ESQ.
For the Firm

524-14314(GBS)